IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2991 OF 2004

Mrs. Nilima Nana Saitwal ... Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. N.V. Bandiwadekar for Petitioner.

Mr. V.P. Malvankar, A.G.P. for R. Nos. 1 and 2.

CORAM : F.I. REBELLO &
DR.D.Y.CHANDRACHUD,JJ.
DATED : JANUARY 23, 2006

P.C.

. The grievance of the Petitioner is that the approval of the Petitioner has been rejected by the Respondents on the ground that the post is reserved for S.T. and also there was no resolution by the Management. The contention of the Petitioner is that she belongs to O.B.C. and can be considered also against open category, if the reservation is worked out to 34%. The Petitioner then can be considered against the open vacancy which is available. The Petitioner relies on the judgement of this court in Ms. Mrunalini Chandrakant Saitavadekar Versus The State of Maharashtra and

Ors. in in Writ Petition No. 5679 of 2005 decided on 15.9.2005 and as corrected by order dated 23.9.2005.

. We have held that reservation applicable to those covered by the Maharashtra Education of Private Schools Act will be 34% and accordingly the vacancies will have to be worked out based on that and the reserved seats will have to be filled in accordingly. In the instant case, the petitioner points out that in so far as S.T. is concerned, if the proper reservation is worked out, considering sanctioned strength, only 3 posts can be reserved for S.T. whereas in fact four posts have been filled in. In other words, there is one post filled in excess. Considering the above, the petition can be disposed of by issuing the following directions :

(1) The respondent Nos. 3 and 4 within four weeks from the receipt of copy of this order being served on them, if the petitioner was selected by following due procedure, after working out reservations, and if there be vacancy against open

seat, to forward the claim of the Petitioner to Respondent No. 2.

(2) The Respondent No. 2 after considering the contentions urged by the Petitioner and after hearing the petitioner and the Management to pass appropriate orders according to law within eight weeks thereafter.

(3) The interim order dated 2.4.2004 to continue pending the final decision and for the period of four weeks thereafter from the date of communication of the order to the Petitioner, if it be adverse to the Petitioner.

. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO,J.)

(DR. D.Y. CHANDRACHUD,J.)